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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	ECF CASE
DEL MONTE FRESH PRODUCE NA, INC.,	:	
GIUMARRA INTERNATIONAL MARKETING,	:	07 Civ. 1887 (DC) (JCF)
INC., and PACIFIC FRUIT INC.,	:	(Consolidated)
	:	
Plaintiffs,	:	
	:	DECLARATION OF CARL E.
-against-	:	PERSON IN SUPPORT OF MOTION
	:	TO WITHDRAW AS COUNSEL
ANA DISTRIBUTION, INC. and SUNG "SAM" G KIM,	:	FOR DEFENDANTS AND
	:	DISTRIBUTION AND
Defendants.	:	<u>SUNG G. KIM</u>
	:	
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I, Carl E. Person, an attorney duly authorized to practice law in the State of New York, do hereby declare, pursuant to the penalties of perjury under 28 U.S.C. § 1746, that the following statements are true and correct:

1.. I am the withdrawing attorney for Defendants. Ana Distribution, Inc. and Sung G. Kim (the "Defendants") in each of the three above-captioned consolidated action, am fully familiar with the facts stated herein, and make this declaration in support of my motion for an Order granting me

(1) permission to withdraw as attorney for Defendants in the action brought by (a) Del Monte Fresh Produce NA, Inc.. Index No. 07 CV 1887; (b) Pacific Fruit, Inc., Index No. 07 CV 2555; and (c) Giumarra International Marketing, Inc., Index No. 07 CV 4665; and an Order so relieving me as counsel for Defendants in such individual actions and the consolidated action;

(2) a stay of all proceedings to permit the Defendants now represented by Carl E. Person to obtain other counsel; and

(3) such other and further relief as the Court deems just and proper.

2.. Since mid-May, 2007, I have been providing my legal services to the Defendants without any compensation.

3.. The total amount owed to me at this time is \$5,142.40, calculated as of October 7, 2007.

4.. On September 7, 2007, the Defendants were enjoined from making payment out of any of their assets to anyone other than the Court's registry or escrow account maintained by counsel for any of the Plaintiffs herein. [Docket entry # 28]

5.. On September 7, 2007, the Plaintiffs represented to me and to the Court that under the circumstances of this action the Defendants are not allowed to use any of their assets to pay for the expenses of this litigation, including fees to accountants and lawyers, and that the assets cannot be used to pay such items as back taxes or food.

6.. As a result of the injunction and the inability of the Defendants to make any payments to me in defending them in this action, or their unwillingness to borrow or obtain other non-PACA assets to pay for my legal services and disbursements, I am unable to continue as attorney for the Defendants in any of the three consolidated actions.

7.. I have a small litigation practice have no economic ability to defend any of the three actions without appropriate compensation being paid on a timely basis, or to advance (with no expectation of recovery) the considerable anticipated out-of-pocket expenses, to provide appropriate representation for the Defendants in the defense of these three actions, including the considerable anticipated litigation in looking for assets (through discovery procedures against the Defendants or the tenants or assignees of the Defendants).

8.. On September 7, 2007, the Court granted me permission to make this motion.

9.. I am serving a copy of the moving papers on the Defendants. and electronic copies of the moving papers on the attorneys for the Plaintiffs by ECF and by email.

10.. There is an outstanding joint motion by the 3 consolidated Plaintiffs for summary judgment as to which the Defendants' opposition, if any, is due no later than October 21, 2007.

Dated: New York, New York
October 10, 2007

A handwritten signature in black ink, appearing to read "Carl E. Person", written over a horizontal line.

Carl E. Person (CP 7637)
Attorney for the Defendants,
Ana Distribution, Inc. and Sun Gong Kim
325 W. 45th Street - Suite 201
New York, New York 10036-3803
(212) 307-4444

CERTIFICATE OF SERVICE

Carl E. Person hereby declares, pursuant to the penalties of perjury under 28 U.S.C. § 1746, that the following statements are true and correct:

I am not a party to this action, am over 18 years of age, and on October 10, 2007, I served a true copy of the foregoing

**DECLARATION OF CARL E. PERSON IN SUPPORT OF
MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANTS
ANA DISTRIBUTION AND SUNG G. KIM**

dated October 10, 2007 (the "Document") on the attorneys for each of the Defendants by ECF filing of the Documents; and on the Defendants Ana Distribution, Inc. and Sung G. Kim by mailing a copy of the Document to the addresses below:


Ana Distribution, Inc.
c/o Sam G. Kim, President
4 Valenza Lane
Blauvelt NY 10913

Sam G. Kim, President
4 Valenza Lane
Blauvelt NY 10913

and on October 10, 2007 by emailing a copy of the Document to the Plaintiffs' respective attorneys at the following email addresses: mamendola@martynlawfirm.com; kasper@biznesslaw.com; b.levinson@verizon.net; c.constable@waeschelaw.com; j.keough@waeschelaw.com.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on October 10, 2007.



Carl E. Person